

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 18, 2003

Division: Growth Management

Bulk Item: Yes No X

Department: Planning

AGENDA ITEM WORDING: Public hearing to consider the adoption of an ordinance amending Sec. 9.5-268. [Existing Residential Dwellings] to implement the recently approved Comprehensive Plan amendment Policy 101.4.23 that "grandfathers" residential structures legally established before January 4, 1996 in order to permit improvements to those structures.

ITEM BACKGROUND:

The Monroe County Board of County Commissioners recently approved an ordinance amending Policy 101.4.23 of the Monroe County Year 2010 Comprehensive Plan. The intention was to "grandfather" residential structures legally established before January 4, 1996 and permit improvements to those structures.

The proposed amendment to Sec 9.5-268 of the Monroe County Land Development Regulations enables the implementation of Comp Plan Policy 101.4.23.

PREVIOUS RELEVANT BOCC ACTION: On May 15, 2002, the Commission adopted an amendment to Policy 101.23 of the Year 2010 Comp Plan. The amendment was intended to permit residences that were legally established prior to January 4, 1996 to be considered as conforming residential units rather than pre-existing non-conforming residential units and thus be permitted to be improved. This amendment to the LDR's permits that policy to be implemented. Only one public hearing required.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes N/A No

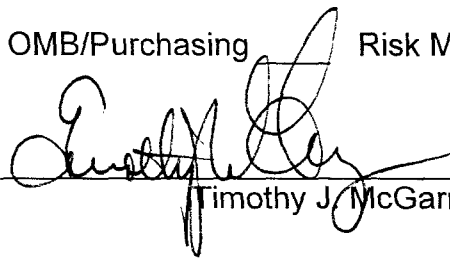
COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

REVENUE PRODUCING: Yes N/A No **AMOUNT PER MONTH** N/A **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:



Timothy J. McGarry, AICP

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:
Revised 1/03

AGENDA ITEM # X3

**AMENDMENT TO THE MONROE COUNTY LAND
DEVELOPMENT REGULATIONS**

Board of County Commissioners
Marathon
June 18, 2003

PROPOSED AMENDMENT TO MONROE COUNTY LAND DEVELOPMENT REGULATIONS

A request filed by the Monroe County Planning Commission to amend the Monroe County Land Development Regulations by amending Sec. 9.5-268 (Existing Residential Dwellings) in order to permit improvements to residential structures legally established before January 4, 1996.

Land Development Regulations text amendment

Staff	Approval	June 2, 2003	Staff Report
DRC	Approval	February 10, 2003	Resolution #D04-03
PC	Approval	April 9, 2003	Resolution #P24-03

BOCC STAFF REPORT

MEMORANDUM

TO: Board of County Commissioners

FROM: Fred Gross, Director, Lower Keys Island Planning Team

DATE: June 2, 2003

RE: **AMENDMENT TO SEC. 9.5-268. [EXISTING
RESIDENTIAL DWELLINGS]**

I. BACKGROUND

The Monroe County Board of County Commissioners recently approved an ordinance amending Policy 101.4.23 of the Monroe County Year 2010 Comprehensive Plan. The intention was to "grandfather" residential structures legally established before January 4, 1996 and permit improvements to those structures.

The planning commission has approved the Comprehensive Plan amendment as outlined above. It now remains that the LDR's be amended accordingly.

The proposed amendment to Sec 9.5-268 of the Monroe County Land Development Regulations enables the implementation of Comp Plan Policy 101.4.23.

The proposed amendment was reviewed and approved by the Development Review Committee at its regularly scheduled meeting of February 10, 2003.

The Planning Commission at its March 26, 2003 meeting in Key Largo voiced concern about the use of the term "dwelling unit" and wanted to be sure that transient units did not receive the same protection. The definition of **dwelling unit** means *one or more rooms physically arranged to create a housekeeping establishment for occupancy by one family with separate toilet facilities* (Sec 9.5-4 (D-31)). A **transient residential unit** means *a dwelling unit used for transient housing such as a hotel or motel room or space for parking a recreational vehicle* (Sec. 9.5-4 (T-4)). It is only in ROGO that the two

are brought together under **residential dwelling unit**, *a dwelling unit as defined in section 9.5-4 Of the Monroe County Code and expressly includes the following terms also defined in section 9.5-4: hotel rooms, campground spaces, mobile homes, transient residential units, institutional residential units and live-aboards* (Sec. 9.5-120). Staff concurs with the Planning Commission that to reduce problems with future interpretations transient units should be expressly excluded.

The Monroe County Planning Commission, at its public meeting of April 9, 2003, voted to APPROVE the draft text amendment.

II. ANALYSIS & FINDINGS OF FACT

1. The Commission finds that there is a need to amend Sec. 9.5-268 [Existing Residential Dwellings].
2. The Commission finds that the proposed change is consistent with Section 9.5-511(d)(5) b. (iv) New Issues and (v) Recognition of a need for additional detail or comprehensiveness.

III. PROPOSED TEXT

Sec. 9.5-268. Existing residential dwellings.

Notwithstanding the provisions of sections 9.5-262 and 9.5-263, the owners of land upon which a lawfully established dwelling unit or a mobile home, but not including transient units, ~~used as a principal residence prior to the effective date of the plan was lawful on the effective date of this chapter exists prior to the effective date of the plan was lawful on the effective date of this chapter~~ shall be entitled to one (1) dwelling unit for each such unit in existence ~~on the effective date of this chapter.~~ Such lawfully established dwelling unit shall not be considered as a non-conforming use.

(Ord. No. 33-1986, § 9-308)

* Underlined text is new

* ~~Strikethrough text is deleted~~

IV. RECOMMENDATIONS

Based on the Findings of Fact above, the Planning Commission of Monroe County, Florida recommends **APPROVAL** of the proposed amendment to Section 9.5-268 of the Monroe County Code.

BOCC ORDINANCE

ORDINANCE NO. -2003

AN ORDINANCE AMENDING SECTION 9.5-268 (EXISTING RESIDENTIAL DWELLINGS), MONROE COUNTY CODE TO PERMIT RESIDENTIAL STRUCTURES LEGALLY ESTABLISHED BEFORE JANUARY 4, 1996 TO BE CONSIDERED AS LEGAL RESIDENTIAL STRUCTURES AND PERMIT IMPROVEMENTS TO THOSE STRUCTURES; PROVIDING FOR THE SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR THE INCORPORATION INTO THE MONROE COUNTY CODE; DIRECTING THE CLERK OF THE BOARD TO FORWARD A CERTIFIED COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Monroe County Board of County Commissioners recently approved an ordinance amending Policy 101.4.23 of the Monroe County Year 2010 Comprehensive Plan; and

WHEREAS, the intention was to "grandfather" residential structures legally established before January 4, 1996 and permit improvements to those structures; and

WHEREAS, the planning commission has approved the Comprehensive Plan amendment; and

WHEREAS, the proposed amendment to Sec 9.5-268 of the Monroe County Land Development Regulations enables the implementation of Policy 101.4.23 of the Comprehensive Plan; and

WHEREAS, the Commission finds that there is a need to amend Sec. 9.5-268 [Existing Residential Dwellings]; and

WHEREAS, the Commission finds that the proposed change is consistent with Section 9.5-511(d)(5) b. (iv) New Issues and (v) Recognition of a need for additional detail or comprehensiveness; and

WHEREAS, the proposed amendment was reviewed and approved at the Development Review Committee meeting of February 10, 2003; and

WHEREAS, the proposed amendment was reviewed and approved at the April 9th, 2003 public hearing of the Planning Commission; and

WHEREAS, the proposed text amendment is consistent with the Monroe County Year 2010 Comprehensive Plan; and

WHEREAS, the proposed change is consistent with Section 9.5-511(d)(5) b. (iv) New Issues and (v) Recognition of a need for additional detail or comprehensiveness; and

WHEREAS, the Monroe County Board of County Commissioners examined the proposed amendment to the Monroe County Code submitted by the Monroe County Planning Department; and

WHEREAS, the Monroe County Board of County Commissioners held a required public hearing on June 18, 2003; and

WHEREAS, the Monroe County Board of County Commissioners hereby supports the decision of the Monroe County Planning Commission and the staff of the Monroe County Planning Department; and

WHEREAS, it is the desire of the Monroe County Board of County Commissioners that the following amendment to the County Code be approved, adopted and transmitted to the state land-planning agency for approval.

NOW THEREFORE; BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT

Section 1. Chapter 9.5, Section 268 [Existing Residential Dwellings], Monroe County Code, is hereby amended as follows:

Sec. 9.5-268. Existing residential dwellings.

Notwithstanding the provisions of sections 9.5-262 and 9.5-263, the owners of land upon which a lawfully established dwelling unit or a mobile home, but not including transient residential units used as a principal residence prior to the effective date of the plan was lawful on the effective date of this chapter ~~exists prior to the effective date of the plan was lawful on the effective date of this chapter~~ shall be entitled to one (1) dwelling unit for each such unit in existence ~~on the effective date of this chapter~~. Such legally-established dwelling unit shall not be considered as a non-conforming use.

(Ord. No. 33-1986, § 9-308)

* Underlined text is new

* ~~Strikethrough text is deleted~~

Section 2. If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. This ordinance shall be filed in the Office of the Secretary of State of Florida, but shall not become effective until a notice is issued by the

Department of Community Affairs or Administrative Commission
approving the ordinance.

Section 6. This ordinance shall be transmitted by the Planning Department to the
Department of Community Affairs to determine the consistency of this
ordinance with the Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County,
Florida at a regular meeting held on the 18th day of _____, A.D., 2003.

Mayor Dixie M. Spehar
Mayor Pro Tem Murray E. Nelson
Commissioner Charles "Sonny" McCoy
Commissioner George Neugent
Commissioner David Rice

Board of County Commissioners
of Monroe County, Florida

(SEAL)

By _____
Mayor/Chairman

Attest: Danny L. Kolhage

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature]
ROBERT N. WOLFE
DATE 6-2-03

PC RESOLUTION

**MONROE COUNTY, FLORIDA
PLANNING COMMISSION RESOLUTION #P24-03**

**A RESOLUTION BY THE MONROE COUNTY PLANNING
COMMISSION RECOMMENDING APPROVAL TO THE
MONROE COUNTY BOARD OF COUNTY
COMMISSIONERS OF THE REQUEST FILED BY THE
MONROE COUNTY PLANNING DEPARTMENT TO
AMEND THE MONROE COUNTY LAND DEVELOPMENT
REGULATIONS BY AMENDING SEC. 9.5-268
[EXISTING RESIDENTIAL DWELLINGS].**

WHEREAS, the Monroe County Board of County Commissioners recently approved an ordinance amending Policy 101.4.23 of the Monroe County Year 2010 Comprehensive Plan; and

WHEREAS, the intention was to "grandfather" residential structures legally established before January 4, 1996 and permit improvements to those structures; and

WHEREAS, the planning commission has approved the Comprehensive Plan amendment as outlined above. It now remains that the LDR's be amended accordingly; and

WHEREAS, the proposed amendment to Sec 9.5-268 of the Monroe County Land Development Regulations enables the implementation of Policy 101.4.23 of the Comprehensive Plan; and

WHEREAS, the Commission finds that there is a need to amend Sec. 9.5-268 [Existing Residential Dwellings]; and

WHEREAS, the Commission finds that the proposed change is consistent with Section 9.5-511(d)(5) b. (iv) New Issues and (v) Recognition of a need for additional detail or comprehensiveness; and

WHEREAS, the proposed amendment was reviewed and approved at the Development Review Committee meeting of February 10, 2003; and

WHEREAS, the proposed amendment was reviewed by the Planning Commission at a public hearing on March 26, 2003; and

WHEREAS, the Commission heard sworn testimony of Staff, comments from the public; and

WHEREAS, the Commission voiced concern about the construction of the text and continued the hearing to April 9, 2003; and

WHEREAS, at the April 9, 2003 public meeting, the Commission reviewed the amended text;

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding findings of fact support their decision to recommend **APPROVAL** to the Monroe County Board of County Commissioners of the of the following proposed text amendment to the Monroe County Land Development Regulations as requested by the Monroe County Planning Department.

PROPOSED TEXT

Sec. 9.5-268. Existing residential dwellings.

Notwithstanding the provisions of sections 9.5-262 and 9.5-263, the owners of land upon which a lawfully established dwelling unit or a mobile home, but not including transient residential units used as a principal residence prior to the effective date of the plan was lawful on the effective date of this chapter exists prior to the effective date of the plan was lawful on the effective date of this chapter shall be entitled to one (1) dwelling unit for each such unit in existence ~~on the effective date of this chapter.~~ Such legally-established dwelling unit shall not be considered as a non-conforming use.

(Ord. No. 33-1986, § 9-308)

* Underlined text is new

* ~~Strikethrough text is deleted~~

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PASSED AND ADOPTED By the Planning Commission of Monroe County, Florida at a regular meeting held on the 9th day of April, 2003.

David C. Ritz, Chair	<u>YES</u>
Denise Werling, Vice Chair	<u>YES</u>
Jerry Coleman, Commissioner	<u>YES</u>
Jiulio Margalli, Commissioner	<u>YES</u>
Alicia Putney, Commissioner	<u>YES</u>

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By _____
David C. Ritz, Chair

Signed this ____ day of _____, 2003